

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ISRAEL BAEZA-CONTRERAS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED

08 Civ. 5881 (SCR)(GAY)

MEMORANDUM ORDER  
ACCEPTING REPORT AND  
RECOMMENDATION

**STEPHEN C. ROBINSON, United States District Judge:**

*Pro se* petitioner Isreal Baeza-Contreras, filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On July 16, 2008, this case was referred to Magistrate Judge George A. Yanthis to issue a Report and Recommendation on Petitioner's motion.

Judge Yanthis issued the Report and Recommendation on April 9, 2009, advising this Court to deny Petitioner's motion in its entirety. As Judge Yanthis explicitly noted at the end of the Report and Recommendation, under 28 U.S.C. § 636(b)(1) and Rule 8(b)(3) of the Rules governing § 2255 proceedings, the parties had a right to file written objections to the Report and Recommendation within thirteen working days to file and serve written objections. More than eight months have elapsed since Judge Yanthis issued his Report and Recommendation, and the parties have not filed objections.

**I. STANDARD OF REVIEW**

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate

judge.” 28 U.S.C § 636(b)(1). To accept a Report and Recommendation to which no timely objection has been made, a district court need only satisfy itself that “there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted); *accord Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); *see also Pizarro v. Bartlett*, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is “not facially erroneous”). As neither party has objected to Judge Yanthis’s Report and Recommendation, this Court will review the Report and Recommendation for clear error.

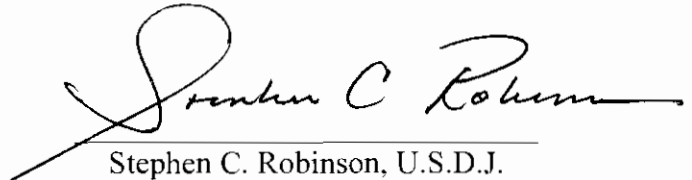
## **II. DISCUSSION**

This Court has reviewed Judge Yanthis’s comprehensive and well-reasoned Report and Recommendation and has determined that there is no clear legal error on the face of the record. Accordingly, the Court accepts Judge Yanthis’s Report and Recommendation in its entirety and denies Petitioner’s motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 in its entirety. The Clerk of the Court is directed to close the case and term any outstanding motions.

*It is so ordered.*

Dated: White Plains, New York

January 6, 2010

  
Stephen C. Robinson, U.S.D.J.